

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/26/2010 - 01/29/2010 Session)

08-1506 [Briefs](#) BANKRUPTCY. Whether the bankruptcy court erred in disallowing appellant's claim on the grounds that it was discharged in
Fougere Holcombe v. US Airways, Incorporated debtor's first bankruptcy proceeding.
(Hilton)

08-1352 [Briefs](#) EMPLOYMENT DISCRIMINATION. Whether employer's reasons for demoting plaintiff were pretext for race discrimination;
Ada Dawson v. US whether employer created hostile work environment; other issues.
(Currie)

09-1490 [Briefs](#) CIVIL. Whether title insurance company was obligated to satisfy property owner's tax liens.
Murnan Spring Hill Trust v. Stewart Title
(Ellis)

REVD 1/15/10

Tuesday, January 26, 2010

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/26/2010 - 01/29/2010 Session)

08-1270	Briefs	CIVIL. Whether trial testimony regarding Title VII plaintiff's earnings was prejudicial error; propriety of summary judgment on state law claim; costs.
Susan Keeshan v. Eau Claire Cooperative Health (Seymour)		

08-2363	Briefs	IMMIGRATION. Whether the Board of Immigration Appeals erred in failing to address petitioner's claim under the Convention Against Torture.
Richard Kporlor v. Eric Holder, Jr.		

08-7131	Briefs	HABEAS CORPUS. Whether counsel's failure to consult with appellant about whether to appeal deprived appellant of the effective assistance of counsel.
US v. Louis Cooper (Bailey)		

REVD 1/8/10

Tuesday, January 26, 2010

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/26/2010 - 01/29/2010 Session)

09-1170	Briefs	CIVIL.	Miller Act; whether district court properly granted defendant's motion for summary judgment on the basis of equitable estoppel and the doctrine of unclean hands.
US ex rel. Damuth Services v. Western Surety (Doumar)			

09-1569	Briefs	CIVIL.	Interpretation of "pay if paid" provision in construction contract.
Universal Concrete Products Co v. Turner (Jackson)			

08-1933	Briefs	CIVIL.	Whether summary judgment was properly entered in favor of defendants on fraud and state law claims.
Curtis B. Pearson Music Compan v. William (Beaty)			

REVD 1/22/10

Tuesday, January 26, 2010

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
10:00 a.m. **

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/26/2010 - 01/29/2010 Session)

09-6376	Briefs	CRIMINAL: Whether the district court committed reversible error in finding appellee entitled to an 18 U.S.C. Section 3582(c)(2) sentence reduction pursuant to Guideline Amendment 706.
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09-7316	Briefs	CRIMINAL LAW. Whether district court had jurisdiction to reconsider its prior order granting a reduction in sentence pursuant to 18 U.S.C. § 3582(c).
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09-1379	Briefs	BANKRUPTCY. Where student loan default is not the fault of the debtor, can court disallow post-petition statutorily mandated collections costs; other issues.
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09-4045	Briefs	CRIMINAL LAW & PROCEDURE. Whether the district court erred in imposing a vulnerable victim enhancement under U.S. Sentencing Guidelines Manual Section 3A1.1(b)(1) (2008); other issues.

Tuesday, January 26, 2010

PANEL IV
Courtroom 4
Room 414-D (Tweed Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (01/26/2010 - 01/29/2010 Session)

08-5111	Briefs	CRIMINAL LAW & PROCEDURE. Whether the district court erred in denying motion to suppress evidence found in vehicle, based on vehicle exception to warrant requirement; forfeiture; sentencing issues.
US v. Fares Abulaban (O'Grady)		

09-1265	Briefs	EMPLOYMENT DISCRIMINATION. Whether manager's alleged sexual harassment of employee imputable to employer; whether employee constructively discharged.
Clara Whitten v. Fred's, Incorporated (Herlong)		

09-1202	Briefs	FALSE CLAIMS ACT. Issues relating to dismissal of False Claims Act action and state qui tam actions.
United States ex rel. Mark Rad v. Purdue Pharma (Jones)		
Associations: 09-1244		

09-4114	Briefs	CRIMINAL. Whether conviction under Virginia domestic assault and battery statute qualifies as predicate offense under 18 U.S.C. Section 922(g)(9) (2006); related issues.
US v. William White (Payne)		

Wednesday, January 27, 2010

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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Richmond, VA (01/26/2010 - 01/29/2010 Session)

09-1498 [Briefs](#) TITLE VII. Whether district court misapplied summary judgment standards in rejecting claim that employer's requirement of Deborah Merritt v. Old Dominion Freight Line, Inc physical aptitude test was pretext for gender discrimination.
(Moon)

09-1044 [Briefs](#) CIVIL. Whether district court erred in ruling it lacked subject matter jurisdiction and in abstaining in action seeking declaratory judgment under Lanham Act involving appellant's web site and appellees' trademark.
Ronald Riley v. Dozier Internet Law, PC
(Hudson)

08-4900 [Briefs](#) SENTENCING GUIDELINES. Whether USSG Section 2A2.4 is analogous offense guideline to NCGS Section 20-141.5; whether sentence exceeded North Carolina maximum sentence, violating "like punishment" requirement of Assimilated Crimes Act.
US v. James Peebles
(Voorhees)

09-4169 [Briefs](#) CRIMINAL. Whether evidence found during search of backpack that concededly did not comply with Terry v. Ohio was admissible as product of inventory search; multiplicity challenge.
US v. Antonio Battle
(Williams)

Wednesday, January 27, 2010

PANEL II
Courtroom 2
Room 201 (Green Carpet)
9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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08-5098	Briefs	CRIMINAL LAW & PROCEDURE. Whether the district court erred in admitting certain testimony under Federal Rules of Evidence 404(b) and 701.
US v. Walter Johnson, Jr. (Floyd)		

09-6013	Briefs	CRIMINAL LAW & PROCEDURE. Whether the district court abused its discretion when it refused to issue a certificate of innocence following reversal of defendant's conviction.
US v. Robert Graham (Faber)		

08-2160	Briefs	BANKRUPTCY. Whether lower courts erred in finding transfer avoidable under 11 U.S.C. Section 550.
Brian Goldman v. Capital City Mortgage Corp (Blake)		

Wednesday, January 27, 2010

PANEL III
Courtroom 3
Room 223 (Tan Carpet)
9:30 a.m.

REVD 12/14/09

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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08-4733 US v. Ray Prorise (Williams)	Briefs	CRIMINAL. Whether district court properly calculated drug quantity attributed to defendant; other issues.
09-1453 Archstone Multifamily Series I v. Niles Bolton (Davis)	Briefs	FEDERAL PROCEDURE. Whether state law claims were preempted by FHA and ADA; propriety of denial of amendment to cross-claim.
08-4725 US v. Jedene Rooks (Friedman)	Briefs	CRIMINAL. Whether the district court erred in denying motion to suppress, admitting evidence, and classifying defendant as a career offender.
09-4298 US v. Torrell Vann (Boyle)	Briefs	CRIMINAL. Whether conviction under N.C. Gen. Stat. Section 14-202.1 for taking indecent liberties with a minor is considered a violent felony for purposes of the Armed Career Criminal Act.

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9:30 a.m.

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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09-4125	Briefs	CRIMINAL. Whether district court erred in finding Gates guilty of criminal contempt; whether procedural requirements of Fed. R. Crim. P. 42 were satisfied.
In Re: Bryan Gates, Jr. (Beaty)		

09-1519	Briefs	IMMIGRATION. Whether the agency's interpretation of the terminology used in 8 C.F.R. Section 244.2 (2009) is entitled to deference under Auer v. Robbins, 519 U.S. 452, 461 (1997).
Jorge Ramos Cervantes v. Eric Holder, Jr.		

08-1569	Briefs	BANKRUPTCY. Whether the bankruptcy court erred in granting summary judgment in favor of debtor on claims for abuse of process and intentional interference with business expectancy.
BNX Systems Corporation v. John Nardolilli (O'Grady)		

07-4775	Briefs	CRIMINAL. Whether the district court erred in declining to give the jury a multiple-conspiracies instruction; other issues.
US v. Walter Babb (Davis)		

Associations: 07-4776

Thursday, January 28, 2010

PANEL I
Courtroom 1
Room 412 (Red Carpet)
9:30 a.m.

09-1249 – Continued.
07-4775(L) – Replacement.

REVD 12/14/09

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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08-5007	Briefs	CRIMINAL LAW. Reasonableness of sentence in light of district court's statements at sentencing.
US v. Dario Mendoza-Mendoza (Britt)		
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09-1432	Briefs	CIVIL. Whether district court erred in dismissing breach of fiduciary duty and other claims in class action against law firm and trustee involving foreclosures and North Carolina ethical rules.
Sheila Laws v. Priority Trustee Services (Mullen)		
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09-1207	Briefs	CONSTITUTIONAL LAW. Effect of city's purchase of liability insurance on sovereign immunity defense; whether police officer was entitled to qualified immunity.
Christie Arrington v. City of Raleigh (Boyle)		

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08-2281 [Briefs](#) CONSTITUTIONAL LAW/RLUIPA. Numerous challenges to jury verdict and judicial rulings in action alleging violations of
Reaching Hearts International v. Prince George's Fourteenth Amendment and Religious Land Use and Institutionalized Persons Act.
(Titus)

08-2054 [Briefs](#) INCOME TAX. Whether district court properly found tax liability for stock transfer accompanying sale of business.
US v. Robert Bergbauer
(Bennett)

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REVD 1/22/10

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
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09-1446	Briefs	EMPLOYMENT LAW. Propriety of summary judgment in action alleging hostile work environment, gender discrimination, and other claims.
Lynette Harris v. Mayor and City Council of Balt (Gauvey)		

09-1126	Briefs	CIVIL. Whether the district court erred in dismissing appellant's claims of disability discrimination on summary judgment; other issues.
Frank Shin v. University of Maryland Medical (Quarles)		

09-1039	Briefs	CIVIL. Whether summary judgment was appropriate in slip and fall case; other issues.
Charles Coleman v. US (Gauvey)		

09-1240	Briefs	BLACK LUNG. Whether substantial evidence supports Administrative Law Judge's conclusion that Cox suffers from complicated pneumoconiosis; other issues. 15 mins. per side
Westmoreland Coal Company v. Lloyd Cox		

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09-4191	Briefs	CRIMINAL LAW & PROCEDURE. Whether the district court erred in denying Flores's motion to suppress the evidence seized following a warrantless search of Flores's trailer.
US v. Alejandro Flores (Thornburg)		

08-2398	Briefs	IMMIGRATION. Whether the Board erred in concluding that petitioner assisted or otherwise participated in persecution of others and is therefore statutorily ineligible for relief under the "persecutor bar."
Callixte Ntamack v. Eric Holder, Jr.		

09-4083	Briefs	CRIMINAL LAW & PROCEDURE. Armed career criminal sentence; upward departure.
US v. Clifton McNeill (Dever)		

09-1534	Briefs	ADMINISTRATIVE LAW. Whether position stated in regulations guide represents "final agency action;" standing issue.
Golden and Zimmerman, LLC v. Edgar Domenech (Smith)		

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08-4042	Briefs	CRIMINAL LAW. Admissibility of evidence discovered when officers stopped defendant based on video surveillance of him making hand-to-hand contact with others in a known open air drug market.
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09-4429	Briefs	CRIMINAL. Whether district court erred in rejecting allegations of prosecutorial misconduct, challenges to jury instructions and reasonableness of sentence in trial of immigration attorney on charges of immigration fraud.
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07-4577	Briefs	CRIMINAL LAW. Whether conspiracy to commit murder was duplicitous of RICO conspiracy and violated protection against double jeopardy; related issues.
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US v. Edgar A. Ayala (Chasanow)		
Associations: 07-4755		
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09-4451	Briefs	CRIMINAL LAW & PROCEDURE. Whether district court erred in applying a sentencing enhancement for reckless endangerment during flight pursuant to U.S. Sentencing Guidelines Manual Section 3C1.2 (2008).
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US v. Billy Wayne Carter (Copenhaver)		

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08-4696 US v. Obie Powell (Messitte)	Briefs	CRIMINAL. Whether caution data from dispatcher concerning passenger in stopped vehicle justified patdown search of passenger.
06-5009 US v. Kevin T. Summers (Messitte)	Briefs	CRIMINAL. Whether, under Melendez-Diaz v. Massachusetts, 129 S. Ct. 2527 (2009), testimony about DNA test results by lab supervisor violated Confrontations Clause.
09-4126 US v. Loquann Johnson (Motz)	Briefs	CRIMINAL PROCEDURE. Whether oral waiver of appellate rights is enforceable; other issues.
09-4326 US v. Mohamed Afif (Duffy)	Briefs	CRIMINAL LAW & PROCEDURE. Whether the district court erred on resentencing by imposing a sentence based on appellant's alienage.

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08-4624	Briefs	CRIMINAL LAW. Whether larceny from the person under North Carolina law is "crime of violence" under USSG Section 4B1.2.
US v. Jerred Jarmon (Beaty)		
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08-5028	Briefs	CRIMINAL. Whether admission of lab report without analyst's testimony constituted plain error; whether sentence violated Ex Post Facto Clause; other issues.
US v. Donald Taylor (Fox)		
Associations: 08-5039		
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09-4099	Briefs	CRIMINAL LAW & PROCEDURE. Whether counsel's conflict of interest is sufficiently clear on the face of the record to be cognizable on direct appeal; other issues.
US v. Erik Dehlinger (Wooten)		
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09-4102	Briefs	CRIMINAL. Sufficiency of evidence to establish drug seller's participation in larger conspiracy; calculation of relevant conduct for sentencing purposes; other issues.
US v. Kenneth Sampler (Moon)		

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8:30 a.m.